

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

R. ALEXANDER ACOSTA, Secretary of
Labor, United States Department of Labor,

Plaintiff,

Civil Action No. 18-10820

v.

KYOTO RESTAURANT OF MEDFORD
LLC d/b/a YOKI JAPANESE RESTAURANT
and PHONG NGUYEN,

Defendants.

CONSENT JUDGMENT AND ORDER

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (the "Secretary") has filed a Complaint in this matter, and Defendants Kyoto Restaurant of Medford LLC d/b/a Yoki Japanese Restaurant ("Yoki Restaurant") and Phong Nguyen ("Phong") have received a copy of that Complaint and waived service of process. The Court finds that it has jurisdiction to enter this Consent Judgment and Order (the "Consent Judgment"), and Plaintiff and Defendants agree to its terms.

This Consent Judgment represents a complete resolution of all the Secretary's claims asserted in this action. The Secretary and Defendants expressly waive findings of fact and conclusions of law, except as otherwise set forth herein, and consent to the entry of this Consent Judgment as a full and complete resolution of all of the Secretary's claims which were made, or could have been made, arising from the facts alleged in the Complaint, without trial or adjudication of any issues of fact or law raised in the Complaint.

It is therefore, ORDERED, ADJUDGED, and DECREED that:

1. Defendants Yoki Restaurant and Phong, and their successors, assigns, agents, servants, employees, and all persons in active concert or participation with them, or acting in their interest and behalf be, and they hereby are, enjoined and restrained from violating Section 15(a)(3) of the Fair Labor Standards Act of 1938 (the "FLSA" or "Act"), 29 U.S.C. § 215(a)(3), and shall not, contrary to that statutory provision, discharge or in any other manner discriminate or take any adverse employment action, or threaten or imply that adverse action will be taken against, any employee who provides, or may seek to provide, information to the United States Department of Labor, or who exercises or asserts his or her rights under the Act or this Consent Judgment.

2. In connection with the Secretary's allegations that Defendants Yoki Restaurant and Phong took unlawful retaliatory action against a former employee at Yoki Restaurant named Sang Nguyen ("Sang"), Defendants shall pay to Sang a total of \$5,000.00 in lost wages, \$5,000.00 in punitive damages, and \$5,000.00 in liquidated damages, for a total payment of \$15,000.00. These payments shall be made to Sang within 30 days of the parties' execution of this Consent Judgment. Within 30 days of the date on which the last of these payments is made to Sang, sufficient proof of all such payments shall be provided to the District Director of the Boston District Office of the Wage and Hour Division of the United States Department of Labor, John F. Kennedy Federal Building, Room 525, Boston, MA 02203.

3. If a prospective employer of Sang's requests of Defendants Yoki Restaurant or Phong a reference for Sang, Defendants and their successors, assigns, agents, servants, employees, and all persons in active concert or participation with them, or acting in their interest and behalf shall provide a written, neutral job reference in response to such a request and shall

not say or convey to any third party anything that could be reasonably construed as damaging Sang's name, character, employment, or prospective employment.

4. Defendants Yoki Restaurant and Phong shall immediately and permanently remove from any files, including Sang's personnel file, all references to any adverse action that was taken against Sang, including his termination, that relate to the allegations in the Complaint in this matter.

5. Defendants shall not, in any way, demand, accept, or keep any amount paid or payable to Sang under this Consent Judgment, or in any manner attempt to recover any amounts paid to him in connection with this Consent Judgment.

6. Nothing in this Consent Judgment precludes the Secretary from using evidence discovered in the investigation that led to the Complaint in this matter in any future investigation, enforcement action, or legal action.

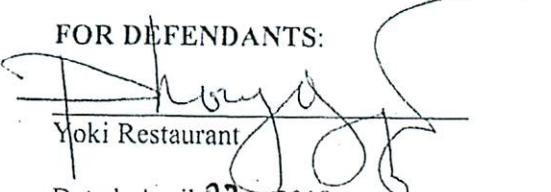
7. Each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED, this 1st day of May, 2018.



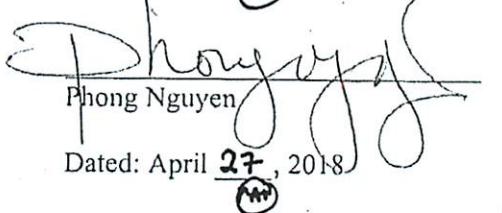
United States District Judge
District of Massachusetts

FOR DEFENDANTS:



Yoki Restaurant

Dated: April 27, 2018



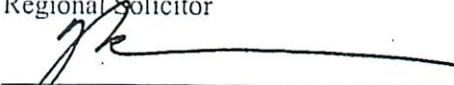
Phong Nguyen

Dated: April 27, 2018

FOR PLAINTIFF:

Kate S. O'Scannlain
Solicitor of Labor

Michael D. Felsen
Regional Solicitor



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Dated: April 27, 2018